IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

ORDER

S.B. CIVIL WRIT PETITION No.625/2004
BANAY SINGH V/s THE STATE OF RAJ. & Ors.

DATE OF ORDER 23.2.2007

PRESENT

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ

Shri Himmat Singh Bikarwal for the petitioner.
Shri B.S. Chhaba, Dy. Government Advocate.

Heard learned counsel for the parties.

Since service on respondent No. 1 is complete, service on respondent No.3, Tehsildar, Tehsil Weir, District Bharatpur is deemed complete. No one has put appearance on behalf of respondent No.2 in spite of service.

The petitioner has filed this writ petition with the grievance that although he has taken loan on 26.6.96 to purchase of tractor which was being used for the purpose of agricultural alone in the sum of Rs.1,50,000/-. The respondent bank granted another loan in the sum of Rs.19,000/- in the month of December, 1996. The petitioner has paid a sum of Rs.76,000/- as against the aforesaid loans upto 14.6.2002 but the respondents thereafter again demanded a sum of Rs.2,61,177/- and the learned counsel for the petitioner submits that the aforesaid amount was exaggerated and reached upto with figure only as the respondent bank were charging interest on quarterly basis

and besides it, it also charging compound interest.

The learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in Corporation Bank v/s D.s. Gowda & Anr. (1994) 5 SCC 213) and other judgments relying on this judgment, the subsequent orders were passed by this court in Idrish & Anr. V/s Asst. Collector & Anr. (S.B.Civil Writ Petition No.2158/1998 and Ramesh & Ors. V/s State Bank of Bikaner & Jaipur & Ors., S.B. Civil Writ Petition No.8392/2004. This is a common ground between the parties that agricultural loan can be charged by the respondents from the petitioner on half-yearly basis. Hon'ble the Supreme Court in para 23 of the aforesaid judgment has held as under :

> "Insofar as Civil Appeal No.544 of 1986 is concerned it relates to the Bank's right to charge compound interest i.e. interest with periodical rests on agricultural advances. We have already referred to the various circulars issued by the Reserve Bank from time to time in exercise of power conferred by Section 21/35-A of the Banking Regulation Act. We have pointed out that the said circulars/directives provide that agricultural advances should not be treated on a par with commercial loans insofar as the rate of interest thereon is concerned because the farmers do not have any regular source of income except sale proceeds of their crops which income they get once a year. The question of recovery of interest with quarterly or six-monthly rests from farmers is, therefore, not feasible. The fact that the farmers are fluid at a given point of time every year has to be kept in mind in determining the point of time when they should be expected to repay the loan or pay the installment/interest on advances. Therefore, to allow the banks to charge

> interest on quarterly or half-yearly rests from farmers would tantamount to virtually compelling them to pay compound interest, since they would not be able to pay the interest except once in a year i.e. when they receive the income from sale proceeds of their crops. The Reserve Bank has shown concern for the farmers by directing all banking institutions to so regulate the recovery of interest as to coincide with the point of time when the farmers are fluid. It has, therefore, been emphasised by the Reserve Bank that interest should be charged once a year to coincide with the point of time when the farmer is fluid and interest on current dues should not be compounded although it may be done when the advance/installment becomes overdue. Thus according to the circulars/directives, so far as loans for agricultural purposes are concerned, at best interest may be charged with yearly rests and may be compounded if the loan/installment becomes overdue. In the present case, since interest was charged with six-monthly rests that was clearly in contravention of the Reserve Bank circulars/directives. Compounding of interest on current dues on agricultural advances having been discouraged, the Bank was not entitled to charge interest with shorter periodical rests and compound the same. The Bank could add interest outstanding to the principal and compound the interest when the crop loan or term loan becomes overdue having regard to the tenor of the circular dated 14.3.1972. The High Court was, therefore, fully justified in coming to the conclusion that the Bank was not entitled to charge interest with half-yearly rest."

Keeping in view, the aforesaid judgment of the Apex Court and later judgments passed by co-ordinate Bench of this court on the basis thereof, I deem it appropriate to direct the respondent Bank to redetermine the liability of the petitioner by charging the interest on yearly basis in

terms given in the aforesaid judgment of the Hon'ble Supreme Court and accordingly furnish fresh statement of account to the petitioner. The bank may also take into consideration the recent instructions issued by the Reserve Bank of India upto the date if there are any requirement available on compound interest on agricultural loan.

This writ petition is disposed of in terms of the aforesaid directions.

(Mohammad Rafiq),J.

Chauhan/